

SPEECH

OF

G. E. CASEY, M.P.

ON THE

REMEDIAL BILL

HOUSE OF COMMONS, OTTAWA, THURSDAY, 12TH MARCH, 1896

Mr. CASEY. A good old Methodist hymn, which refers to the conditions of those who have gone before into a better world, speaks of their troubles on earth in this wise :

They wrestled hard, as we do now,
With sins and doubts and fears.

That reminds me very much of the hon. gentleman's (Mr. Kenny's) position while he was making his speech. He was wrestling very hard with difficulties of that kind, and I am sure that when he brought upon the desk those last three sheets which contained his beautiful peroration, he must have been as much relieved as the rest of the House were at the happy event. The hon. gentleman set out by telling us that he was no lawyer, and he proved that statement most conclusively before he got through. But he also proved that he was a special pleader, and that in dealing with speeches which have been delivered, and facts that have been ascertained, his ordinary manner—I suppose I must speak of it in a parliamentary way—is ingenious. He gave us, in his own ingenious way, his version of the remarks of those who preceded him, and the facts of the case. He told us that he did not want to hear the word: "Catholic" and "Protestant" in connection with this debate, but his whole speech, from beginning to end, was an ingenious attempt to wrest arguments, statements and facts for the purpose of rousing the religious prejudices of Catholics. He told us that he objected to violence of statement in men of his age and the age of the hon. member for South Oxford (Sir Richard Cartwright), and that such violence always met with retaliation. I have no doubt the hon. gentleman has got that fact fully established in his own mind.

for this session he has had an experience of the retaliation that follows violent, abusive, and ingenious remarks, directed against other members of the House. He had so much of that retaliation that it is a considerable time since we have seen him on the floor of this House, or heard his melodious voice. He is going to suffer on this occasion from another species of retaliation, which, perhaps, he may feel more deeply than any he has deserved by the ingenuity of his remark, and that is, that no one will take the trouble to follow him through the windings of his alleged arguments, or attempt to answer his alleged statements of fact.

PUBLIC SCHOOLS IN NOVA SCOTIA.

There is one admission he has made, however; and as we can afford to use so much of his speech as gives away his case, that must be noticed. He told us that the present public school system in Nova Scotia has been a success, that the *modus vivendi* has been a success there, and that he would advise the minority in Manitoba to agree to a similar arrangement in that province. And yet he intends to vote for a Bill which makes *modus vivendi* impossible, and which will impose on the people of that province a school system which is not of their own devising.

"WRESTLING HARD."

Now, I notice that he is not the only gentleman on that side of the House who is wrestling with sins and doubts and fears. The whole Government have been in great difficulty about this measure ever since it has come upon the carpet. They have en-

dured it long and now wish to make an end of the agony. When the hon. member for North Norfolk (Mr. Charlton) concluded his remarks, the hon. Minister of Finance called "question," intimating that he did not wish any further discussion of the question, but to have an immediate vote. I am astonished that he should so far underrate the importance of this great question, and the desire of members of this House to discuss it, as to make that demand. He knew that at the time he called "question," the House was thin, and that a large number of members were engaged on the Railway Committee, which was somewhat irregularly sitting while the House was in session. He knew that one at least of the most prominent speakers on this side, the hon. member for Bothwell (Mr. Mills), was ill and not able to speak, and he knew, personally, very well that that gentleman intended to speak, and was fully prepared to do so. He knew all this, and yet he called "question." It showed an impatience of suffering with which I would hardly have credited the hon. gentleman.

MINISTERS TO HEAR FROM.

But there are other reasons why we should not come to a vote for some time yet, besides the considerations of fair-play to which I am alluding. We have not heard from the hon. Minister of Finance (Mr. Foster) himself on this question. He is one of the central figures in connection with this issue in the eyes of the country. It has long been known, he has made no secret of it, that he never wished to have a Bill of this kind brought before the House by a Government of which he was a member. It is known that he is, in heart, opposed to it, and opposed it in Council since the inception of the idea. We also know that no man in the House has such a facility for composing ingenious excuses for his own conduct, and for the conduct which he wishes his supporters to practice, and we are awaiting his remarks with great interest. We are waiting to hear from the brains of the party, because we have not heard from the brains of the party yet, to any great extent. We have heard from the Master-Mind on the subject, but he gave very little attention to the question in hand, and told us nothing whatever new or useful about it, when he introduced the Bill. He took the job of introducing the Bill out of the hands of the Minister of Justice (Mr. Dickey), who had given notice of the Bill, and had helped to prepare it.

THE LIQUIDATOR.

To sustain his position in the Cabinet, and his pretensions to a still higher position in it, the hon. Secretary of State (Sir Charles Tupper) took away the job of explaining the Bill from

his subordinate, and made such an explanation of it as the House has already heard. I am not going to qualify or describe that explanation further. It was quite clear, that this hon. gentleman had come out here as the liquidator of a bankrupt government. He had no interest in this Bill, he did not care anything about it, and did not know anything about it, but took it over as part of the bankrupt stock of the concern which he had come to liquidate, and, when he brought it before the public view, he was unable to show off his goods to any great advantage. Now, Sir, for that reason we want to hear from these brainy members of the Government who do know something about the Bill. Besides the gentleman whom I have already named, we want to hear from the hon. Minister of Marine and Fisheries (Mr. Costigan); we want to hear from the ex-Minister of Justice (Sir Charles Hibbert Tupper) who really had most to do with the framing of the Bill; we want to hear from the hon. Minister of Railways (Mr. Haggart), who has had something to say upon the subject elsewhere than in this House. We want to hear from every one who belongs either to the bolting or to the remaining wing of the Government, what they think of this Bill, and how they justify their conduct.

TORTURES OF HERCULES.

To come back to my subject, they have been in great difficulties in regard to the measure. In fact, the Conservative party, at the present time, is somewhat in the position of a certain hero of old, to whom I may refer, as a reverend old friend of mine used to do, as belonging to ancient history. My good old friend used to speak of all those of whom we read before the Christian era, as belonging to ancient history, and he spoke of Neptune, Cæsar and Nebuchadnezzar as of equal reality. He used to tell us about Hercules, and, in one respect, the story of Hercules resembles the plight of the Conservative Government to-day. Hercules, as we all know, was a long-suffering and powerful hero of mythology, who came to his end in a very tragic way. One of the wives of his bosom sent him, as a present, what she supposed to be a clean shirt, but it turned out to have been poisoned with the blood of something or other—a hydra, I think, or some other creature that was prolific in microbes—and, when Hercules donned his present, he found himself in trouble. He writhed, groaned, shrieked, wriggled and yelled, until, finally, he died. And I think the Conservative Government is in the same position to-day. They have put on what they supposed to be a beautiful new garment, which they call Remedial Policy, but they find that it burns like fire, and they are now writhing in agony. I do not wonder that, like the Finance Minister, they

are anxious to have the agony over and to be through with it and with life together.

THE PROPOSED CONFERENCE.

They have one last hope, which has been referred to to-night, the hope of a conference with Mr. Greenway on this subject. They declare, that they intend to have this conference after the Bill has passed its second reading. The question naturally arises: Why should not that conference be held before the second reading? Is it sensible, is it reasonable, to ask Mr. Greenway to come down here and consult in this matter after it is practically all finished? Is it not an insult to him and to his government to ask them to come here and then propose to meet them with a loaded gun—to say to them: "We have passed this Bill on its second reading, we have got the assent of the House to the principle, and now, if you do not go down on your marrow bones, if you do not knuckle down to us, we will fire the gun and blow you and your legislation out of existence, and impose our will upon the people of your province?"

ITS OBJECT.

That is the meaning of the proposition for the conference which the Secretary of State said he was going to have—that is the meaning of it, as it refers to Manitoba. What is the object of the proposal, from the point of view of party tactics? It is quite clear. The object is to tell the bolters from Ontario and other provinces: There is no fear that the Bill will become law. They are told almost in so many words by the press, they will be told privately by members of the Government and the party whips, and dear knows, by whom else: "Don't fret; you are all right; vote for the second reading of the Bill, for it will not become law; we are going to get Greenway down and get a promise from him to do something that will enable us to drop the Bill or burk it in committee; you may vote for the second reading with a clear conscience, for there is no danger of Manitoba being coerced." But the bolter may look at it in another way, and he may say: "If the Bill is not going to pass, if you are going to have a conference with Mr. Greenway, why commit me to the principle of coercion, by forcing me to vote for the second reading? Why not postpone the second reading until after you have seen Mr. Greenway, and unless it is necessary to pass the Bill, let us not commit ourselves before our constituencies by this unpopular vote." That is how it will strike the bolter—the bolter for what I may call Protestant reasons.

ITS TRUE MEANING.

But will it so strike the supporters of the Government who, like my non. friend from

Halifax (Mr. Kenny), really wish to have remedial legislation? It is impossible that a gentleman of his acuteness should fail to see, that this proposition of a conference is a confession of failure on the part of the Government. It is an adoption, but too late to be of any use, of the policy which the leader of the Opposition has been urging upon them for five years, ever since this question became a question—the policy of inquiry before final action. It is a confession of failure, in not having done it before. It is a confession that they do not want the Bill passed, if, by any possibility, it can be got rid of. That is the way in which it must strike all those who really wish remedial legislation.

THE BILL—ITS IMPORTANCE, AND HISTORY.

Coming to the Bill itself, and the interests involved, I think, that this is, undoubtedly the most important question that has ever arisen in Canada. It is a question upon the solution of which depends the answer to the query, whether the people who now compose the confederation, can live together any longer as Canadians. I do not pretend that any immediate rupture would follow any course that might be taken in regard to this Bill. But I do contend, that, if this question is not settled in consonance with sound constitutional ideas, and with sound policy, for the good of Canada at large, it will open a breach between the different classes in the confederation that may never be healed. We must approach the consideration of this question with such coolness and calmness as party feeling will allow us to exercise. I hope, for my own part, that, in discussing this question, I am as far from feeling the prejudices of a Stewart Mulvey, on one hand, as I am from entertaining the same opinions as Bishop Cameron does, in regard to those who oppose the Bill, on the other. Personally, I have equal opportunities, through relationship, and so on, to understand the views of both Protestants and Catholics on the matter, and I think I can view the question with a fair mind.

ITS HISTORY.

The history of the case has been gone over pretty frequently, and I need not go into that in detail. There were petitions from Manitoba alleging grievances. There was a reference to the Supreme Court for its opinion, merely, as to whether those grievances constituted ground for appeal to the Privy Council of Canada. There was an appeal from the opinion of the Supreme Court on that question, to the Privy Council of England.

POINTS OF REFERENCE.

I wish to make it clear that that appeal merely carried over the same

questions that were before the Supreme Court here, in order to get the opinion of the English Privy Council upon them; and the decision of the Privy Council had no more the effect of law in the matter, had no more directive or compulsive power than the opinion of the Supreme Court had in the first instance. And, as was well pointed out by my hon. friend from Kamouraska (Mr. Carroll), whose speech on that subject cannot be too highly praised, the opinion either of the Supreme Court or of the Privy Council on that matter was purely advisory under the terms of the reference, and had really no more binding effect on the Government than the opinion of the Minister of Justice himself could have had.

PRIVY COUNCIL'S OPINION.

Now, the Privy Council gave a different answer, as its opinions on the points submitted, from that given by the Supreme Court, holding that there was a *prima facie* case for an inquiry by the Privy Council of Canada. That is another point I wish to make clear. The decision of the Privy Council was that there was a case for inquiry and possible action. They did not pretend that they had made any inquiry, they did not pretend to dictate what the action should be. To make that clear, I wish to quote a sentence or two of the reference on which they decided. Question 2 submitted to the Privy Council reads as follows :—

Are the grounds set forth in the petitions and memorials such as may be the subject of appeal under the authority of the subsections above referred to, or either of them ?

Question 5 was :

Has His Excellency the Governor General in Council power to make the declarations or remedial orders which are asked for in the said memorials and petitions, assuming the material facts to be as stated therein, or has His Excellency the Governor General in Council any other jurisdiction in the premises ?

DID NOT ESTABLISH A GRIEVANCE.

There is a complete answer to the statement of the hon. member for Halifax (Mr. Kenny) that the Privy Council of England had decided that there was a grievance requiring a remedy. The point has been made by the hon. member for Kamouraska (Mr. Carroll); I merely repeat it to answer the hon. gentleman's repetition of the other charge. Those were the questions asked them, and they decided that, "assuming the facts stated in the petition" there was ground for a hearing. A great deal has been made of the concluding clause of the Imperial Order in Council based upon the decision of the Privy Council in England. The great bulk of that Order in Council, of course, simply embodied the words of the finding of the Committee of the Privy Council, the judges, in other words, who heard the case. But at the close are added the usual words with

which an Order in Council always concludes, namely :

Her Majesty having taken the said report into consideration, was pleased by and with the advice of Her Privy Council to approve thereof and to order, as it is hereby ordered, that the recommendations and directions therein contained be punctually observed, obeyed and carried into effect in each and every particular. Whereof the Governor General of the Dominion of Canada for the time being, and all other persons whom it may concern are to take notice and govern themselves accordingly.

NO COMPULSORY ORDER.

We have heard no end of times, all over the country, that these words constitute a distinct order, to our Government here, to enforce a remedy for certain grievances in Manitoba. They constitute nothing of the kind, as every lawyer ought to know, but as some lawyers have pretended to ignore. But these words were quoted in the election of Haldimand somewhere about a year ago, as a proof that the remedial order, which had been passed already, was not a declaration of policy on the part of this Government, and was merely handing on the decision of the Privy Council to the government of Manitoba. How hollow that claim is, will appear from reading the decisions of the Committee of the Privy Council itself, which are embodied in this Order in Council. In answer to the 5th question, which I have just read, they say :

In answer to the fifth question :—That the Governor General in Council has jurisdiction and the appeal is well founded, but that the particular course to be pursued must be determined by the authorities to whom it has been committed by the statute; that the general character of the steps to be taken is sufficiently defined by subsection 3 of section 22 of the Manitoba Act, 1870.

I will read from the judgment as contained in the report of the Canadian case, as edited by their counsel in England, to show what the concluding words of the Order in Council mean.

Their lordships have decided that the Governor General in Council has jurisdiction, and that the appeal is well founded, but the particular course to be pursued must be determined by the authorities to whom it has been committed by the statute. It is not for this tribunal to intimate the precise steps to be taken. Their general character is sufficiently defined by the 3rd subsection of section 22 of the Manitoba Act.

So far, it is similar to what I have quoted from the blue-book, but the original report goes on :

It is certainly not essential that the statutes repealed by the Act of 1890 should be re-enacted, or that the precise provisions of these statutes should again be made law. The system of education embodied in the Acts of 1890 no doubt commends itself to, and adequately supplies the wants of the great majority of the inhabitants of the province. All legitimate grounds of complaint would be removed if that system were supplemented by provisions which would remove

the grievance upon which the appeal is founded, and were modified so far as might be necessary to give effect to these provisions.

BUT STATEMENT OF PRIMA FACIE CASE.

Then the Order in Council states what the grievance was, assuming the facts alleged in the petition to be true, as follows:—

Before this passed into law—

(Referring to the Act of 1890 and amendments.)

—there existed denominational schools of which the control and management were in the hands of the Roman Catholics, who could select the books to be used, and determine the character of the religious teaching. These schools received their proportionate share of the money contributed for school purposes out of the general taxation of the province, and the money raised for these purposes for local assessment was, so far as it fell upon the Catholics, applied only towards the support of Catholic schools.

These are the three provisions so often referred to as A, B and C, securing the control and management of separate schools the supply of their proportionate share of the public money, and exemption from taxation for public schools.

CANADIAN PRIVY COUNCIL'S ACTION.

Now, that was the condition of things when the Privy Council of Canada began to inquire into the matter. And what did they do? Instead of inquiring into the facts which had been alleged—by the petitions which had been assumed by the British Privy Council, and which had been transmitted to them for their judgment, they came to a decision without having before them as evidence a single proven fact in regard to this alleged grievance, or a single answer to the allegations of the petitioners. We all know that certain evidence on behalf of the petitioners was put before them, that they refused time to Manitoba to reply to that evidence, that thereupon that evidence was withdrawn for the purposes of the suit. But those same affidavits have irregularly, improperly and scandalously been since published in the official blue-book, as if they had been part of the case before the Privy Council, and had been decided upon by that body. I say that such action was scandalous, because it leads the public to believe that this was in evidence before the committee of the Privy Council, and had to be taken into account in the decision, when such was absolutely not the fact.

WHAT IT SHOULD HAVE DONE.

Then they concluded this farcical proceeding, misnamed an inquiry, by passing an order which granted all that the petitioners asked. I remind you, Sir, that the British Privy Council had told them that they need

not grant all the petitioners asked. But this Government, without having any evidence, legally, before them, did grant all the petitioners asked, and put it in the Order in Council. My contention is that there and then was the time when not only questions of fact, but questions of policy should have been entered into by the Government of Canada, before they issued any order to the government of Manitoba. If I understand the Manitoba Act, it was the duty of the Privy Council of Canada to consider, first, all questions of fact relating to grievances alleged to exist; second, all questions of policy as to how the grievances may be best remedied, without involving undue interferences with existing legislation. We contend that this Government did not look into these matters at all; that they merely made themselves machines for registering the demands in full of the petitioners.

THE REMEDIAL ORDER—RESTORED SEPARATE SCHOOLS.

The order subsequently published by the Governor in Council refers to the three classes of privileges to which I have referred, and sets them out under headings, "A," "B" and "C," in this form:

(a) The right to build, maintain, equip, manage, conduct and support Roman Catholic schools, in the manner provided for by the said statutes which were repealed by the two Acts of 1890, aforesaid.

(b) The right to share proportionately in any grant made out of the public funds for the purposes of education.

(c) The right of exception of such Roman Catholics as contribute to Roman Catholic schools from all payments or contribution to the support of any other schools.

I make this quotation in order to maintain my contention that the Order in Council directed and implied the restoration of the Manitoba separate schools, as they existed before 1890.

A DECLARATION OF POLICY.

It has been contended that that order is the judgment of a court. It is not the judgment of any court. There was no consideration of evidence, there was no decision on facts; it was a declaration of policy, a declaration binding the Cabinet as a whole, to the policy that the separate school system of Manitoba should be restored to the full extent in which it existed before 1890. That order was served on Manitoba, and the province made a reply, refusing to accept it in that shape, but urging certain important considerations in regard to it, to some of which I must refer. It points out many valid reasons why the law of 1890 was passed, among others, that the separate schools were defective, and allowed the people to grow up illiterate. It took objection on the ground of principle

to any change been made. Then it pointed out particular difficulties, in this manner :

MANITOBA'S REPLY.

Objections upon principle may be taken to any modification of our educational statutes which would result in the establishment of more sets of separate schools. Apart, however, from the objections upon principle there are serious objections from a practical educational standpoint. Some of these objections may be briefly indicated.

We labour under great difficulties in maintaining an efficient system of primary education. The school taxes bear heavily upon our people. The large amount of land which is free from school taxes and the great extent of country over which our small population is scattered present obstacles to efficiency and progress.

Hon. members will see that the land policy of the Government in the North-west is involved in this manner, that their action in exempting railway lands from taxation has, to a large extent, prevented the establishment of schools. Then the reply touches on this important point :

INQUIRY SUGGESTED AND REJECTED.

We believe that when the remedial order was made, there was not available then to Your Excellency in Council full and accurate information as to the working of our former system of schools.

We also believe that there was lacking the means of forming a correct judgment as to the effect upon the province of changes in the direction indicated in the order.

Being impressed with this view, we respectfully submit that it is not yet too late to make a full and deliberate investigation of the whole subject. Should such a course be adopted, we shall cheerfully assist in affording the most complete information available. An investigation of such a kind would furnish a substantial basis of fact upon which conclusions could be formed with a reasonable degree of certainty.

But the Government rejected that offer, as they had refused the advice of the leader of the Opposition to the same effect long before.

ESSENTIALS OF RESTORED PRIVILEGES.

Then this reply from Manitoba points out the two essentials to any effective and substantial restoration of Roman Catholic privileges, in this way :

1. The right to levy school taxes.

2. The right to participate in the legislative school grant ; without these privileges the separate schools cannot be properly carried on, and without them, therefore, any professed restoration of privileges would be illusory.

There is some argument put forward as to the legality of legislating in this Parliament with respect to levying school taxes ; but in regard to the second point, the right to share in the legislative grants, there is no room for argument. It is clear to every one that without a share in the public funds of the province, the restoration of separate

schools in Manitoba must be perfectly illusory, and the framers of the present Bill have confessed it by the manner in which they have framed the Bill, for evidently, they are unable to see any way of providing public funds for those schools.

MEMORANDUM FROM OTTAWA.

Then there was the memorandum, dated 27th July last, adopted by the Committee of the Privy Council, here, making certain suggestions. This was not a new remedial order addressed to Manitoba, directing it to do certain things, but a memorandum making suggestions to Manitoba, and setting forth that something less than what was demanded by the remedial order might be satisfactory to the minority. It was an inquiry as to what Manitoba would be willing to do about the matter. It contained no indication as to what the Government here intended to do. In reply to that memorandum, and forwarded a good deal later, there was another memorandum from the Government of Manitoba, sent on 21st December, 1895, covering a good deal of ground, and I wish to call attention to one of its phases. It contains a distinct repetition of the invitation to inquire further into the facts of the case. It says :

MANITOBA'S SECOND REPLY.

It is a matter of regret that the invitation extended by the legislative assembly to make a proper inquiry into the facts of the case has not been accepted, but that, as above stated, the advisers of His Excellency have declared their policy without investigation. It is equally a matter of regret that Parliament is apparently about to be asked to legislate without investigation. It is with all deference submitted that such a course seems to be quite incapable of reasonable justification, and must create the conviction that the educational interest of the people of the province of Manitoba are being dealt with, in a hostile and peremptory way, by a tribunal whose members have not approached the subject in a judicial spirit, or taken the proceedings necessary to enable them to form a proper opinion upon the merits of the question.

The inquiry asked for by the reply of the legislature to the remedial order should, in the opinion of the undersigned, be again earnestly invited, and in the event of the invitation being accepted the scope of the inquiry should be sufficiently wide to embrace all available facts relating to the past or present school systems.

I do not think the position could have been stated in more correct and statesman-like language. The Privy Council, here, had failed absolutely in its duty to consider the facts and the policy of the case, before framing its order. The legislature of Manitoba had, in reply, invited inquiry, and by that invitation had practically pledged itself to abide by the result of the inquiry. Again, as late as the 21st December last, it repeated the invitation with the same implication involved in it. Even then, the Government here would not accept it. It is only

now, when they find how slippery is their hold upon the majority in this House, when they find how thoroughly unpopular their policy is with the country, that they are holding out an olive branch, with a sword point concealed among the foliage, inviting Manitoba to a conference about the details of this question, after the matter has been settled by the Bill passing its second reading in this House.

CONFERENCE PROPOSAL PROVES MANITOBA RIGHT.

By this last concession, the Government have confirmed the stand of the Manitoba legislature, and confirmed the stand taken by the leader of the Opposition, that there should have been more investigation and consultation about the matter, and that it is even yet not too late, to have that consultation. The only difference between their position, as modified by this confession of failure, and our position, is, that they propose to act before having a consultation, and that we propose to defer action until there has been time for a consultation. We propose to give this Bill what is called the six months' hoist, to give it a clear negative, for the time being; but that action certainly does not prevent, as has been alleged, an inquiry and a consultation with the Manitoba government, as to what that government should do in regard to the schools in that province. I have no doubt that the influence of this Government, exerted in that way, could have long ago settled this question, and could have kept it out of politics for years back, if it had not been supposed to be the interest of hon. gentlemen opposite, to keep the question in politics for party purposes, for the sake of the votes they thought they could make out of it.

THE BILL COERCIVE, BUT NOT REMEDIAL.

I come now to consider, briefly, the provisions of the Bill itself. I will not go into the details now, but certain broad facts stand out in regard to the principle of the Bill. In the first place, the Bill is, in its terms and in its intentions, coercive. It has been denied that it is coercive, because it provides the nominal alternative, that the Manitoba government may, itself, do a great many things ordered therein, and so prevent their being done by this Government. But I say that a Bill which is intended, or supposed to be intended, to secure the performance of certain things in Manitoba, which the government of that province do not wish to be done, is, in its essence, a coercive Bill. This Bill, in regard to some things, provides, that if they are not done by the local government they shall be done by the Governor in Council here. In regard to other things, it directs the Lieutenant-Governor in Council

to do them, but provides no alternative in case they refuse to do them. According to the strictest definition of the word "coercion," this Bill is strictly a coercive Bill in its intention, and in its language, and yet those in this House who sympathize with the position of the minority in Manitoba, who feel that something ought to be done for them, have the additional fault to find with it, that while the Bill is coercive in language and intention, it is not remedial. This point was well brought out, like so many others, by the hon. member for Kamouraska (Mr. Carroll); but it cannot be too often impressed upon the House, that the Bill is, at the same time, coercive and ineffective.

IT IS UNCONSTITUTIONAL.

Before calling attention to its defects as an Act for establishing separate schools in Manitoba, I wish to emphasize the argument that the Bill is, in its essence, unconstitutional, and is one which this House has no right to pass. It must be remembered that our jurisdiction is a special one in regard to separate schools in Manitoba. It is a jurisdiction forming an exception to the rule of the constitution, which gives educational matters to the control of the province. It is, therefore, limited to the exact wording of the constitution, which creates that exception, and endows us with power to act. Under the 3rd subsection of section 22 of the Manitoba Act, the circumstances which give rise to our jurisdiction are clearly defined. There must be, first, an appeal from the aggrieved minority to the Governor General in Council. There must be an Order in Council, demanding certain relief from the government of Manitoba for that aggrieved minority. There must be a refusal by the government of Manitoba to grant that relief, and the measure of our jurisdiction—and this is a point to which I wish to call special attention—the measure of our jurisdiction in this matter is the degree in which Manitoba has refused to carry out our demands.

BECAUSE DIFFERENT FROM REMEDIAL ORDER.

There is a theory, that, if your remedial order directs Manitoba to do a large number of things, and she refuses to do those things, you may then legislate to carry out a smaller number of objects, and justify it by the pretense, that the greater includes the less. No argument could be more absurd and rotten. Our jurisdiction only begins when Manitoba has refused to do certain particular things, and it is only with regard to those certain particular things that we are able to legislate. I do not think that argument could be expressed any better than was done in the columns

of "La Vérité" of last week. "La Vérité" is an acknowledged clerical organ in the province of Quebec, an organ which I am told goes practically to every priest in the province, an organ which is looked to, as its name indicates, to tell the truth on everything in which the interests of religion are involved. By a strange coincidence "La Vérité" on the 7th of March and the hon. member for Winnipeg (Mr. Martin) on the 6th of March in this House put forward almost exactly the same argument in regard to the unconstitutionality of this measure. When you find the hon. member for Winnipeg, the author of the Act of 1890, the man who is supposed to be the champion of Mr. Greenway in this particular matter, and "La Vérité," the organ of the clerical party in Quebec, and supposed to be the champion of the hierarchy and the priesthood in that province, agreeing exactly in the same argument—

Mr. AMYOT. If the hon. gentleman will allow me—

Mr. CASEY. Order. Only one conclusion remains, Mr. Speaker, and that is, that this argument is so incontrovertibly and absolutely true that it cannot be got around by anybody. Now, if my hon. friend wants to ask me a question, I will hear it.

Mr. AMYOT. I say that the hon. gentleman is entirely mistaken about the position of "La Vérité" in Quebec.

Mr. CASEY. What is its position, then?

Mr. AMYOT. It is an ordinary paper, without any authority more than any other paper.

Mr. CASEY. Others of my hon. friends from Quebec, who are equally able to speak of "La Vérité" such as my hon. friend from Montmagny (Mr. Choquette), and my hon. friend from Bagot (Mr. Dupont), have told me that it is, I do not say an inspired paper, but one that is looked upon as a clerical paper which goes practically to every priest in the province of Quebec.

Mr. CHOQUETTE. And has great influence.

Mr. CASEY. I have no doubt that my hon. friend who interrupts me (Mr. Amyot) thinks that "La Vérité" is a very ordinary paper when it disagrees with him, but that it is a very extraordinary paper when it agrees with him and with the Government which he supports. "La Vérité" is not as loyal to the Government as the hon. member for Bellechasse (Mr. Amyot) is for the moment. There have been times when he has not been loyal to the Government; but he is now extremely loyal to them, and he does not like to be told that an independent paper, which consults the church authorities, but does not consult him or the Premier of this country, has pronounced against this Bill. I propose to read to you as correct a translation as I can make of the argument in "La Vérité." It says:

"LA VERITE'S" OPINION.

The parliamentary correspondence of the "Triduvien" considers that the present time is not well chosen for discussing the merits of the Remedial Bill. We believe it is infinitely better worth our while to examine this Bill now, when it is, at least theoretically, possible to modify it, than to pass it first, and then to estimate its shortcomings. It will be said, "If there are shortcomings, they will be removed by subsequent legislation." Let no one create this illusion for himself. Such as the Act is when passed, such will it remain. Never can Parliament be led to legislate twice on this question. It is enough to remember what is going on at Ottawa to convince one of this.

If the Bill is not modified so as to make it conform entirely to the remedial order of last March, it can be attacked as unconstitutional. In effect, the Federal Parliament has no right to legislate on the school question except in so far as the Manitoba Legislature has refused to legislate itself. Now, the remedial order of March 21st, 1895, declared that the minority had a right to three things: A, B, C, viz., (A) to construct, maintain, manage, Roman Catholic schools; (B) to receive a proportional share of every subsidy granted from the public funds for educational purposes; (C) finally, exemption for the Catholics from taxes imposed for the maintenance of public schools. It is A, B, C, which the Federal Government ordered the legislature to do. It is, therefore, A, B, C, which the Manitoba Legislature has refused to do. It is, therefore, A, B, C, which the Federal Parliament has the right to do, in virtue of the constitution.

But, by the Bill actually before the public, the Government only invites Parliament to do A and C; for, no matter what one may say, clause 74 does not do B;—that is to say, it does not give the minority a proportional part of every grant made for educational purposes out of public funds.

Winnipeg may then say:—"I have refused to do A, B, C;—but I have not refused to do A, C. You have, therefore, the right to legislate on A, B, C, because of my refusal; but you have not the right to legislate on A, C, because you have not, in the first place, given me legal notice to legislate, myself, in regard to A, C, alone."

It is useless to do like the ostrich: to hide one's head in the sand, and believe oneself under shelter. If clause 74 is not modified so as to do B, the Act will probably be declared unconstitutional.

There is the opinion of an independent, respected, influential, clerical authority, on the constitutionality of this measure. It is remarkable that the same argument should have occurred to the hon. member for Winnipeg at the same time, and should have been put forward on the same day without any knowledge of the coincidence or part of either. The conclusion, I say, is clear that that argument is incontrovertible. Both the Greenway side of this question and the clergy of the province of Quebec are agreed in thinking that this Act is defective and will probably be unconstitutional.

MEANT TO BE UNCONSTITUTIONAL.

Nay, Mr. Speaker, I will go further than that; I believe the Government meant this

Act to be unconstitutional. Nobody believes for a moment that this Government, now consolidated, with the brains back in it, and the imbecile head, as he was described by his subordinates, not cut off—nobody believes that this two-headed Government really wish to restore separate schools to Manitoba. Everybody knows that all they wish to do is to pass a Bill through this House which shall nominally assert the right of the Catholics of Manitoba to separate schools, which shall make a show of coercing Manitoba, which shall be sufficient to secure the support of the Catholic church in the next election. That is all they want to do. They are comforting themselves and their Ontario followers with the assurance that after all it does not matter. They know that the Privy Council will declare the Act in its present shape to be ultra vires. They know that Parliament will never venture to attack the question again. They know that it is a dead issue if this Bill passes. They know more than that; they know that if this Parliament forces separate schools on Manitoba, it will prevent the legislature of Manitoba from establishing separate schools itself. They are afraid like the hon. Minister of Marine and Fisheries (Mr. Costigan) that the Manitoba government will re-establish those schools and get the credit of that act. They would rather see it done from here, and the result of an attempt to do it from here by a Bill in any such shape as the one before the House would be to make Catholic separate schools in Manitoba impossible for generations yet to come.

It is a serious question for our French and other Catholic friends whether they should vote for a Bill of that kind, in view of the consequences to their co-religionists.

MR. CAMERON. Hear, hear.

SENATOR POWER'S OPINION.

MR. CASEY. My hon. friend from Inverness gives his dry "hear, hear" as a criticism on my remarks; but I am glad to be able to oppose to that little interruption of his the opinion of as good a Catholic, as good a Nova Scotian, and as good a lawyer as he is. I refer to Senator Power, of Halifax. His catholicity will not be denied by any one who knows him.

MR. CAMERON (Inverness). Nor his Gritism.

MR. CASEY. Strange as it may seem to the hon. member for Inverness, it is quite possible to be a good Grit and a good Catholic at the same time. We may say one thing for Senator Power's catholicity, which I am afraid will never be said for the catholicity of the hon. member for Inverness. More than twenty years ago, certain writings of Senator Power on the relations of the church to politics, which were published in our papers here, were sent to Rome, and submitted to the college of cardinals; and they

were declared by the cardinal whose special duty it was to look into the matter to be sound in theology, although there was a slight leaning to Gritism in the writings. And as a result of the writing of those articles, an ablegate was sent from Rome to this country, and an important revision of the relations between church and state in this country, followed his mission. Senator Power's catholicity, therefore, cannot be denied, and I will give you some idea of his opinions on this Bill. I will read you one or two of his conclusions, first, and then one or two quotations in support thereof. I shall read you first the conclusion of his valuable pamphlet:

Having looked at the record of the Government in connection with the Manitoba school question and having examined the Remedial Bill, I return now to the question stated at the beginning of this paper, and say that in my humble opinion, the Bill in question, is not such a measure as a Catholic member of either House of Parliament should vote for. It is calculated to do no good, but rather harm to Catholic interests in Manitoba, and to cause serious injury to the Canadian people as a whole. While I do not question the right of any Catholic member, who can satisfy himself that the Bill is likely to improve the position of his co-religionists in the matter of education, to vote for it, I shall feel it my duty, as a Catholic and as a citizen, to vote against it, should it come before the Senate, in anything like its present condition.

L. G. POWER.

Ottawa, 3rd March, 1896.

A DIVIDED CABINET.

He finds that a great many defects in the Bill, some of which I have pointed out, and others to which I have not referred. He says, after a good many criticisms, which I shall not read in full:

In short, the Bill is such as one would naturally expect to result from the contest of two hostile sections of a Cabinet, warring over the remedial order, one striving—probably honestly—to restore to the Catholic minority, the rights of which they were unjustly deprived by the Manitoba Act of 1890, and the other determined that nothing should be done to alienate the large section of the population which is opposed to any concession to the minority, and believes that in the matter of education, the majority in Manitoba should have a perfectly free hand.

Let us suppose the Remedial Bill to have become law, and try to foresee the probable result. Certain school districts, in which a majority of the voters are Catholics, have accepted the Acts of 1890 and are now working under them. The people assess themselves under the law and receive their proportion of the legislative grant. The teachers say Catholic prayers, and give instructions in the doctrines of their church after the regular school hour.

This is in the much-abused Protestant schools of Manitoba!

The attitude of the schools in Catholic districts towards the existing law and their present condition are reported on by Mr. A. L. Young—an officer of the Manitoba government.

FRIENDLY MANAGEMENT OF PUBLIC SCHOOLS.

He then goes on to quote the report of Mr. Young, but, as Mr. Young will be suspected of favouring the Government, I prefer to quote from the speech of Senator Bernier, which he gives later on :

“However, I find that he is to a great extent confirmed by Senator Bernier, late superintendent of Catholic schools in Manitoba. Speaking of the Catholics of that province he said, in addressing the Senate on 25th April, 1895 :

“Inducements were offered to them by the local government through their officers to attend the schools without entirely sacrificing their views ; and they thought they might try the new system. It is not on account of any preference for the public schools but because of their poverty and of the peculiar inducements offered to them. The local government were anxious to have some of our schools brought under the law in order to be able to base an argument upon the change. An inspector was sent to them who told them that if they wanted to keep up their schools the government would not be too exacting about compliance with the regulations. He told them that they might quietly give any religious instruction in the school after school hours. He told them that they could begin and close school work by saying the ordinary Catholic prayers and even suggested how it should be done.”

This is sufficient proof out of the mouth of Senator Bernier, late superintendent of separate schools in Manitoba, that the local government has made it as easy as possible for the Catholic minority there to avail themselves of the ordinary public schools. Senator Power goes on to comment as follows :—

MANITOBA CATHOLICS WOULD LOSE BY CHANGE.

It is hardly to be expected that the districts in question will give up the advantages which they now enjoy, for the purpose of coming under the operation of the Remedial Bill, if it become law ; and I do not believe that Senator Bernier will seriously blame them if they fail to do so. They would gain nothing and lose a great deal.

Amongst other things they would lose their share of the public grant for educational purposes, which this Bill finds no means of giving them.

Whatever we may think of the local government's action in this connection, it cannot be said that it shows any hostility to Catholic schools as such ; and it perhaps indicates that, if the existing contest with the Dominion Government were at an end, a settlement or modus vivendi satisfactory to all concerned might be found without any radical change in the existing law. In the rural districts, where the law of 1890 has not been accepted, the Catholics as a rule are not well enough off to maintain their schools satisfactorily with their own funds, without a share of the legislative grant and without exemption from taxation for the public schools.

It is clear that in Manitoba the passing of the Remedial Bill will be of no substantial benefit to the Catholic minority, while it will tend to pre-

vent a friendly settlement of the question and to antagonize the local government and the Protestant majority, who might otherwise be willing to make such modifications in the existing law as to legalize concessions similar to those tolerated in Nova Scotia, New Brunswick and Prince Edward Island, and recognized as being on the whole fairly satisfactory.

MR. CAMERON. Hear, hear.

MR. CASEY. They were so recognized tonight by the hon. member for Halifax (Mr. Kenny) and now by the hon. member for Inverness (Mr. Cameron).

MR. CAMERON. If legalized.

SO WOULD THOSE OUTSIDE.

MR. CASEY. The hon. member for Halifax declared that they were satisfactory as they stood. Senator Power goes on to say :

Outside of Manitoba, persistence by the Dominion Government is likely to have injurious effects, more especially in Ontario, where it may lead to a renewal of the warfare waged for so many years against Catholic separate schools by the Conservative party under the leadership of Mr. (now Chief Justice) Meredith. The number of Catholic children of an age to attend separate schools in Manitoba, was, as appears from the official report for 1886, the last to which I have had access, about 4,100.

Now comes a passage to which I would call the attention not only of every Catholic, but of every Protestant who, like myself, wishes to see no disturbance of the existing relations between Protestants and Catholics in Ontario :

The prospects of a successful campaign against separate schools in Ontario would be much increased if the Catholic electors of that province were now by transferring their support to the Conservatives, to alienate the Liberals, who, under Sir Oliver Mowat, have been their staunch friends in the past. In any case, the passing of the Bill will cause a continuance of the present mischievous and regrettable agitation, which is prejudicial to the interests of all classes.

HE TRUSTS THE PROTESTANTS.

I skip again a little and quote further. After saying that he does not object to the Remedial Bill on the ground of provincial rights, he says :

At the same time, I am convinced that, under all the circumstances of the case—some of which I have discussed—Mr. Laurier's policy of inquiry and conciliation would, if adopted, be far better for Catholics as well as Protestants, not only in Manitoba but in Ontario and all the other provinces of the Dominion, than that of the Government, as embodied in the attempt to pass the Bill. I was for thirteen years a commissioner of schools for the city of Halifax ; and my experience in that capacity has satisfied me that good tempered appeals to the generosity and sense of justice of our Protestant fellow-citizens will nearly always gain recognition for our reasonable claims and due regard for our conscientious convictions ; while, on the other hand, anything in the nature of aggression or coercion is almost

certain to lead to resistance and failure. In Ontario the experience has been much the same. Various amendments to the original Separate School Act, which were needed to place the Catholic schools upon a satisfactory footing, have been made from time to time, without appeals to any power other than the spirit of toleration and the sense of justice of the overwhelming Protestant majority of that great province. Human nature is much the same in Manitoba as in Nova Scotia or Ontario; and the attempt by the Dominion Parliament at the present time to set up separate schools in Manitoba under the provisions of the so-called Remedial Bill, against the strong protests and hostility of the Government, legislature and electorate of that province, is fore-doomed to failure.

I will not quote any more, though it is all valuable.

LIBERALS FAIR TO CATHOLICS.

I will say in conclusion to the Catholics in Ontario, and to those who know what has taken place in Ontario, that they should know who are their friends, they should know perfectly well who have stood up for their rights, so far as those rights could be obtained without adopting a policy that would injure the country at large. They know whether the P.P.A.'s, the associates of my hon. friend from East Lambton (Mr. Moncrieff), who spoke in favour of this Bill, or the associates of those on this side of the House have done justice to the Roman Catholics in Ontario. To our French friends I do not need to say anything.

An hon. MEMBER. They are not here.

Mr. CASEY. No, but they are within hearing. The people of Quebec know who is their friend. They know in whom they are trusting. They know that they have a man who understands them, who understands their views and their interests. And, by a strange coincidence, we of Ontario find in the same individual one who understands us and our views and our interests. In spite of all attempts by such speakers as my hon. friend from Halifax (Mr. Kenny), who seems to feel a natural antipathy to our leader—and I do not wonder at it—in spite of all attempts to raise religious prejudices against him amongst the Catholics of Quebec and the Protestants of Ontario, our leader stands out as the only man who has taken a manly straightforward, upright course in regard to

this question, the only man who by any possibility can settle this question.

PATRIOTISM OF FRENCH CANADIANS.

I said a moment ago that I need not say anything to our Liberal French friends, but I cannot help saying one thing to them. They may be sure that those who have taken a broad and statesmanlike view of this question, who have refused to take advantage of a constitutional technicality to pursue a course that would stir up divisions of race and creed in Manitoba, who have refused to take advantage of the weapons placed in their hands, will find that the people of Manitoba are human like the people of the rest of Canada. Whatever the feeling has been there, up to the present time, it will be impossible for any ordinary British or French people in Manitoba to refuse to do something in return for the magnanimity which these gentlemen are showing. I say that those French Canadians and Irish Catholics who are supporting the policy of the leader of this side of the House—and they are a vast and increasing number—are doing more to save the future of Canada, are doing more to make the continuance of confederation possible, are doing more for the welfare of their co-religionists in the province of Manitoba, than can be done by any Government in Canada taking the fullest advantage of the weapons afforded by the constitution.

COERCION IMPOSSIBLE.

And when I say that this Bill is a failure, I am not imputing any special blame to the Government, because I am quite convinced that any Bill that could be framed in this House must be a failure. I am convinced that no means exist for enforcing the will of this Parliament upon Manitoba in opposition to the will of its legislature and the majority of its people. What we can blame the Government for, is not their inability to do the impossible, but their dishonesty in pretending to do what their common sense should have told them was impossible, and for seeking to make capital out of religious differences and for keeping the country in a turmoil over a question that could have been settled long ago by conciliatory and peaceful methods.